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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/829,244	04/22/2004	Rosanna Tenaglia	SJ-12290US	8190

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DENNISON ASSOCIATES
SUITE 301
133 RICHMOND ST. WEST
TORONTO, ON M5H 2L7
CANADA

EXAMINER

LEWIN, ALLANA

ART UNIT	PAPER NUMBER
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3764

DATE MAILED: 05/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/829,244

Applicant(s)

TENAGLIA, ROSANNA

Examiner

Allana Lewin

Art Unit

3764

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 March 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 and 6-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 6-10 is/are rejected.
- 7) ☒ Claim(s) 9 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Objections

Claim 9 is objected to because of the following informalities: in line 4, the word 'strip' should presumably be --strap--. Appropriate correction is required.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-4 and 6-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

3. It is not clear how much patentable weight can be given the last phrase of claim

1. The last phrase is conditional on "when" said bar is removably mounted to the strap. Does this mean that when said bar *is* removed from the straps these limitations are to be ignored?

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1, 2, 4, 6 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Sherman et al. (US Pat. No. 3,531,113).

6. Sherman discloses an exercise device comprising a resilient member (44), or elastic strap, having a pair of band connectors (36, 37), or collars, fitted to the strap at spaced apart locations along the strap (note Figure 3); a plurality of different grip components (31, 34, 42) that removably mount to a 'center securement port' of the collars (note Figure 4) as the tube (42), or bar, removably mounts to the collars via threaded connecting means (52) and the stirrups (31, 34), which comprehend Applicant's handgrips, removably mount to the collars by spiral wire connections attached to the resilient member and the resilient member extending through the center of the tube and therefore also the center securement port of the collar. As shown in Figure 3, the resilient member (44), or strap, wraps around each collar and leaves the center securement port open. The tube (42), or bar, is removably mounted to the strap, as the strap can be disengaged via spiral wire connections and then readily removed from the tube, and receives the collars on opposite ends of the bar (note Figure 3) with the bar extending through the 'center securement ports' (note Figure 4).

7. Regarding claim 2, the collars are adjustable lengthwise along the strap as Sherman discloses that where desirable, bearing member (50) may be supported on a known rotating bearing and thus reduce the frictional force (column 3, lines 34-36). The rotating bearing would allow the strap (44) to readily adjust relative the collar and therefore provide adjustability along the length of the strap. Furthermore, the collars

(36, 37) are adjustably secured by threaded connection means (52) to the bar and are therefore lengthwise adjustable along the strap.

8. Regarding claim 4, Sherman discloses the collars being cylindrical (note Figure 4) and includes spiral wire connections having a terminating end loop (column 3, lines 19-24) on the strap, which comprehend Applicant's clips, that removably secure the strap tightly wound around the collars, as connecting the clips farther from the collars, for example distally on members 31 and 34 rather than proximally as shown in Figure 3, would cause the strap to be 'tightly wound around' the collars.

9. Regarding claim 6, the tube, or bar, fits in both of the collars and hold the collars spaced apart from one another (note Figure 3) and allows the collars to rotate relative to a longitudinal axis of the bar, as the collars are closed by known threaded connecting means (52) and therefore the threaded connecting means can inherently be adjusted or loosened thereby allowing the collars to rotate relative to the bar.

10. Regarding claim 10, each of the grip components cooperate with the collars when contacted thereto (note Figure 4) and forms a pivotal connection therebetween, as the 'handgrips' (31, 34) are free to pivot by connection to the collar via strap (44) and adjustment of the threaded connecting means (52) enables pivotal connection of the tube within the collar.

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sherman in view of Rodriguez (US Pat. No. 4,337,938).

13. Sherman, discussed in detail above, fails to disclose the strap having a rectangular cross-section.

14. Rodriguez discloses an exercise device wherein elastic straps (14, 20, 22) wrap around rings or collars (16, 18), with the straps having a rectangular cross section and thereby allow a smooth and flush connection as they wrap around the collars (note Figure 2).

15. Based on the teachings of Rodriguez, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have utilized an elastic strap with a rectangular cross section in the Sherman device in order to provide a smooth and flush connection of the strap to the device and thereby preventing the strap from interfering with the user during exercise as a flat or rectangular strap would eliminate the gap that exists between the strap and the apparatus (note Figure 3). Elimination of this gap would ensure that the strap would not be accidentally caught or snagged while the user is exercising.

16. Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sherman in view of Gvoich (US Pat. No. 5,885,196).

17. Sherman, discussed in detail above, fails to disclose the bar being formed of a plurality of bar segments comprising a main body portion and end fittings, and the bar segments snap lock connect to one another.

18. Gvoich discloses an exercise device comprising a bar (20) that is collapsible into two halves (62, 64). The left half (62) includes a reduced diameter end portion for fitting into an end portion of an adjacent bar (note Figure 1). Gvoich also teaches a snap lock (70, 72) for releasably locking the halves together. Gvoich clearly teaches the convention of breaking the bar down into smaller pieces for storage and transport. Gvoich also teaches the convention of using reduced diameter end portions for interconnecting the ends of the bar together. Gvoich further teaches the convention of using a snap lock to releasably lock the bar portions together. Any number of bars and arrangement of bar portions together is well within the realm of the artisan of ordinary skill. It would have been obvious to reduce the diameter of the end portions of the main body portion (68) and make the other segments (62, 68) fit on the end portions with spring pins (70, 72) positioned on the other segments to engage with the main body portion, since it has been held that a mere reversal of the essential working parts of a device involves only routine skill in the art. *In re Einstein*, 8 USPQ 167. This reversal of parts would allow the other segments (62, 64) to be uniformly manufactured and therefore allow the overall device to more cost efficient.

19. Based on the teachings of Gvoich, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have utilized a bar formed from a plurality of bar segments comprising a main body portion and end fittings, and the bar segments snap lock connect to one another in the Sherman device in order to make the device be easily disassembled thereby enabling convenient storage and transport.

20. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sherman in view of Holm (US Pat. No. 5,571,064).

21. Sherman, discussed in detail above, fails to disclose one grip component comprising a door grip.

22. Holm discloses an exercise device comprising an elastic strap (14), a plurality of grip components including handgrips (note Figure 2) and a bar (note Figure 1), with one grip component (15) comprising a thin pliant strap with a loop at one end (note Figure 3) for attaching to the elastic strap and a doorstop member (16) at the other end of the pliant strap.

23. Based on the teaching of Holm, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have utilized a grip component comprising a door grip in the Sherman device in order to provide the user with the added and substantial resistance of exercising against a rigid and stationary frame structure such as a door, thereby enhancing the level and quality of exercise that is attainable from the device.

Conclusion

24. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


Response to Arguments

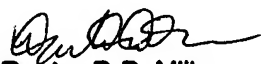
25. Applicant's arguments with respect to claim 1, 4, and 9 have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Allana Lewin whose telephone number is 571-272-5560. The examiner can normally be reached on Monday-Friday, 8AM-4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Huson can be reached on 571-272-4887. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

AL 
May 16th, 2006


Danton D. DeMille
Primary Examiner